

OFFICIAL SECRETS ACT

ARRANGEMENT OF SECTIONS

SECTION

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An Act to make further provision for securing public safety; and for purposes connected therewith.

[1962 No. 29.]

[13th September, 1962]

[Commencement.]

1. Protection of official information, etc.

(l) Subject to subsection (3) of this section, a person who-

(a) transmits any classified matter to a person to whom he is not authorised on behalf of the government to transmit it; or

(b) obtains, reproduces or retains any classified matter which he is not authorised on behalf of the government to obtain, reproduce or retain, as the case may be,

is guilty of an offence.

(2) A public officer who fails to comply with any instructions given to him on behalf of the government as to the safeguarding of any classified matter which by virtue of his office is obtained by him or under his control is guilty of an offence.

(3) In proceedings for an offence under subsection (1) of this section relating to any classified matter, it shall be a defence to prove that-

(a) when the accused transmitted, obtained, reproduced or retained the matter, as the case may be, he did not know and could not reasonably have been expected to believe that it was classified matter; and

(b) when he knew or could reasonably have been expected to believe that the matter was classified matter, he forthwith placed his knowledge of the case at the disposal of the Nigerian Police Force.

2. Protection of defence establishments, etc.

(1) A person who, for any purpose prejudicial to the security of Nigeria-

(a) enters or is in the vicinity of or inspects a protected place; or

(b) photographs, sketches or in any other manner whatsoever makes a record of the description of, or of anything situated in, a protected place; or

(c) obstructs, misleads or otherwise interferes with a person engaged in guarding a protected place; or

(d) obtains, reproduces or retains any photograph, sketch, plan, model or document relating to, or to anything situated in, a protected place, is guilty of an offence.

(2) A person charged with an offence under the foregoing subsection shall, unless the contrary is proved, be deemed to have acted for a purpose prejudicial to the security of Nigeria if from his character or general conduct and from all the circumstances of the case it appears that he acted for such a purpose; but nothing in this subsection shall be construed as precluding the giving in evidence of matters tending to show that the accused acted for such a purpose.

1. Restrictions on photography, etc., during periods of emergency

(1) The President may, during any period of emergency within the meaning of section 305 of the Constitution of the Federal Republic of Nigeria, by order provide that during the continuance of that period no person shall, without permission in writing given by the President, photograph, sketch, or in any other manner whatsoever make a record of the description of, such things designed or adapted for use for defence purposes as may be specified by the order.

(2) A person who contravenes the provisions of an order under this section is guilty of an offence.

1. Control of mail forwarding agencies, etc.

(1) The Minister may make regulations-

(a) for controlling the manner in which any person conducts any organisation for receiving letters, telegrams, packages or other matter for delivery or forwarding to any other person; and

(b) without prejudice to the generality of the foregoing paragraph, providing for the furnishing of information and the keeping of records by persons having or ceasing to have the conduct of such an organisation.

(2) Regulations under this section may contain such incidental and supplementary provisions as the Minister considers expedient for the purposes of the regulations, including in particular provisions imposing penalties (not exceeding imprisonment for a term of three months or a fine of N 100 or both) for any failure to comply with the regulations; and the regulations may make different provisions for different circumstances.

(3) Regulations under this section shall not come into force until they are approved by resolution of each House of the National Assembly.

1. Power to require information as to offences under this Act

(1) Where an officer of the Nigerian Police Force not below the rank of an Assistant Commissioner suspects that an offence under section 1, 2 or 3 of this Act has been committed and that a particular person is likely to be able to furnish information with respect to the suspected offence, he may, after obtaining the consent in writing of the Minister for the issue of a warrant under this subsection in respect of that person, issue a warrant to any superior police officer of that force authorising him-

(a) to require that person to furnish to the superior officer all information in that person's possession relating to the suspected offence; and

(b) in any case where it appears necessary to the superior officer so to do, to afford that person adequate facilities for attending at a time and place specified by the officer and to require that person so to attend for the purpose of furnishing the information aforesaid.

(2) Where it appears to an officer proposing to issue a warrant under subsection (1) of this section that the delay likely to be involved in obtaining the consent mentioned in that subsection would seriously prejudice the security of Nigeria, he may issue the war-

rant without obtaining that consent but shall on so doing forthwith report his action to the Minister.

(3) If any person-

(a) fails to comply with a requisition under subsection (1) of this section; or

(b) in pursuance of such a requisition furnishes any information which he believes to be, or recklessly furnishes any information which is false in a material particular,

he is guilty of an offence.

6. Search warrants

(1) Where an officer of the Nigerian Police Force not below the rank of an Assistant Commissioner has reasonable cause to believe that an offence under section 1, 2 or 3 of this Act has been committed and that matter relating to the offence is likely to be found on particular premises, he may issue a warrant to any superior police officer of that force authorising him, and such other police officers as may accompany him, to enter and search those premises and to seize and remove any matter found on the premises which the superior police officer considers is evidence of an offence under any of those sections.

(2) A police officer may use such force as may be reasonably necessary for the purpose of executing a warrant issued under this section.

1. Penalties, and legal proceedings

(1) A person who commits an offence under section 1, 2 or 3 of this Act is liable-

(a) on conviction on indictment, to imprisonment for a term not exceeding fourteen years;

(b) on summary conviction, to imprisonment for a term not exceeding two years or a fine of an amount not exceeding N200 or to both such imprisonment and fine.

(2) A person who commits an offence under section 5 of this Act is liable on summary conviction to imprisonment for a term not exceeding three months or a fine of an amount not exceeding N 100 or to both such imprisonment and fine.

(3) No proceedings in respect of an offence under sections 1, 2 or 3 of this Act shall be begun except with the consent of the Attorney-General of the Federation or of a State

or by or on the instructions or authority of the Director of Public Prosecutions of the Federation or of a State; and the instrument by which permission is signified for the beginning of any such proceedings shall state whether the proceedings shall be summary or on indictment.

(4) Nothing in subsection (3) of this section shall be construed as preventing the detention of any person with a view to the taking of proceedings against him.

1. **Supplementary provisions as to offences**

(1) Without prejudice to any other provisions relating to the matters mentioned in the following paragraphs or cognate matters, a person who-

(a) attempts to commit an offence under this Act or regulations made thereunder; or

(b) aids, abets, counsels, incites, procures or commands the commission of such an offence; or

(c) becomes an accessory before or after the fact to such an offence; or

(d) conceals or procures the concealment of such an offence which he knows has been committed,

is liable to be proceeded against and punished as a principal offender; and references in this Act to such an offence, or to an offence under any provision of this Act, shall include references to an offence in pursuance of this subsection.

(2) Where it is alleged that an offence under this Act or regulations made thereunder has been committed outside Nigeria by a citizen of Nigeria, proceedings in respect of the offence may be brought in any court in Nigeria which would have had jurisdiction in the matter if the offence had been committed in the part of Nigeria for which the court acts.

(3) Without prejudice to any other power of arrest, a police officer may arrest without warrant any person whom he finds committing an offence under section 1, 2 or 3 of this Act, or whom he reasonably suspects of having committed such an offence.

1. **Interpretation, etc.**

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say-

“classified matter” means any information or thing which, under any system of security classification, from time to time, in use by or by any branch of the government, is not

to be disclosed to the public and of which the disclosure to the public would be prejudicial to the security of Nigeria;

“Government” means the Government of the Federation;

“Minister” means the Minister of the government responsible for security and public safety;

“protected place” means-

(a) any naval, military or air force establishment in Nigeria, any other place in Nigeria used for or in connection with the production, storage or testing, by or on behalf of the government, of equipment designed or adapted for use for defence purposes, and any other building, structure or work in Nigeria used by the government for defence purposes; and

(b) any area in Nigeria or elsewhere for the time being designated by an order made by the Minister as being an area from which the public should be excluded in the interests of the security of Nigeria,

and includes a part of a protected place within the meaning of paragraph (a) or (b) of this definition;

“public officer” means a person who exercises or formerly exercised, for the purposes of the government, the functions of any office or employment under the State.

(2) For the purposes of this Act, classified matter remains classified matter notwithstanding that it is properly transmitted to, or obtained from, or otherwise dealt with, by a person acting on behalf of the Government of a State.

10. Short title, extent and repeal

(1) This Act may be cited as the Official Secrets Act.

(2) This Act shall apply throughout the Federation and shall apply to citizens of Nigeria elsewhere than in the Federation.

(3) The Official Secrets Act is hereby repealed, so however that section 5 of the Official Secrets Act, 1920 (which provides for the control of mail forwarding agencies) shall not cease to have effect in its application to Nigeria until the first regulations made in pursuance of section 4 of this Act come into force.

[Cap. 144 of the 1958 Edition.]

(4) Subsection (3) of this section shall not be construed as repealing the Official Secrets Act (in this Act referred to as “the former legislation”) in so far as, apart from that

subsection, the former legislation has effect as part of the Law of a State and is not inconsistent with or made redundant by the Act; and the former legislation shall have effect accordingly.

(5) Nothing in this section shall affect any power of the Legislature of a State to make laws with respect to public safety which are not inconsistent with the provisions of the Act and, in particular, to make laws repealing the former legislation in so far as it has effect as part of the Law of the State.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation